

Hon. Thomas T. Glover
Hearing: June 5, 2009, 9:30 am

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In re:

JOLAN, INC.

Debtor

Case No. 09-10411
Chapter 7

ORDER RULING ON CREDIT BIDDING

THIS MATTER having come before the Honorable Thomas T. Glover on Friday, May 8, 2009, at 1:30 p.m. to consider the issue of credit bidding at the upcoming auction of the personal property of the debtor located in the J&M Café and Cardroom located at 201 First Avenue South, Seattle, Washington 98104 ("J&M Premises") scheduled for Thursday, May 21, 2009 at 10:00 a.m.; the Court considered the pleadings on file as well as the oral presentations of Denice Moewes representing trustee Michael McCarty, Jerome Shulkin representing landlord Jacob Buttnick, Debra Ricci representing EvergreenBank and Donald Bailey representing Lance Miyatovich and Barry O'Young; the Court finding that, on the record before the Court and for the purpose of credit bidding, the security interest of Miyatovich is not avoidable as a fraudulent transfer or a preference; and the Court otherwise deeming itself fully informed in the matter, now, therefore it is hereby ORDERED:

1. AdvanceMe, Inc., is not allowed to credit bid at the auction as it failed to file its proof of claim by the deadline of Monday, April 27, 2009 as required by previous court order;

2. A 506(c) surcharge will be assessed in favor of James G. Murphy Company, Inc. for the auctioneer's fees and costs associated with the auction, in the amounts authorized by the order dated May 1, 2009 (Docket #76);

3. The issues of a 506(c) surcharge to the landlord, trustee and counsel for the trustee is

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1 reserved until after the auction has taken place;

2 4. EvergreenBank is allowed to credit bid the amount of its claim up to \$363,000.00;

3 5. Lance Miyatovich is allowed to credit bid the amount of his claim up to \$62,000.00, however
4 in order to credit bid any amount he must first pay EvergreenBank the amount of \$363,000.00.

5 6. This order is applicable to the auction sale conducted on May 21, 2009,
6 notwithstanding that it is entered after the event.
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8 Dated: _____
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12 U _____ E
13 Thomas T. Glover
14 United States Bankruptcy Judge
15 (Dated as of "Entered on Docket" date above)

16 Presented By:

17 SHAFER & BAILEY

18 Donald A. Bailey

19 Donald A. Bailey WSB#12289

20 Attorney for Miyatovich

21 Approved for Entry:

22 WOOD & JONES PS

23 /S/ Denice Moewes

24 Attorney for Trustee
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